

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 269
93RD GENERAL ASSEMBLY

Unofficial

Reported from the Special Committee on Urban Issues April 21, 2005, with recommendation that House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 269 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

0768L.10C

AN ACT

To repeal section 143.183, RSMo, and to enact in lieu thereof one new section relating to athletes and entertainer tax.

Bill

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 143.183, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 143.183, to read as follows:

143.183. 1. As used in this section, the following terms mean:

(1) "Nonresident entertainer", a person residing or registered as a corporation outside this state who, for compensation, performs any vocal, instrumental, musical, comedy, dramatic, dance or other performance in this state before a live audience and any other person traveling with and performing services on behalf of a nonresident entertainer, including a nonresident entertainer who is paid compensation for providing entertainment as an independent contractor, a partnership that is paid compensation for entertainment provided by nonresident entertainers, a corporation that is paid compensation for entertainment provided by nonresident entertainers, or any other entity that is paid compensation for entertainment provided by nonresident entertainers;

(2) "Nonresident member of a professional athletic team", a professional athletic team member who resides outside this state, including any active player, any player on the disabled list

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

if such player is in uniform on the day of the game at the site of the game, and any other person traveling with and performing services on behalf of a professional athletic team;

(3) "Personal service income" includes exhibition and regular season salaries and wages, guaranteed payments, strike benefits, deferred payments, severance pay, bonuses, and any other type of compensation paid to the nonresident entertainer or nonresident member of a professional athletic team, but does not include prizes, bonuses or incentive money received from competition in a livestock, equine or rodeo performance, exhibition or show;

(4) "Professional athletic team" includes, but is not limited to, any professional baseball, basketball, football, soccer and hockey team;

(5) **"Top tier fund", the obligation of the regional convention and sports complex authority created under sections 67.650 to 67.658, RSMo, to ensure that the St. Louis multipurpose convention and indoor sports facility presently known as the Edward Jones Dome remains within the top twenty-five percent of all National Football League stadiums or, depending on the context, any obligation to ensure that the sports facility presently known as Arrowhead Stadium remains within the top twenty-five percent of all National Football League stadiums.**

2. Any person, venue, or entity who pays compensation to a nonresident entertainer shall deduct and withhold from such compensation as a prepayment of tax an amount equal to two percent of the total compensation if the amount of compensation is in excess of three hundred dollars paid to the nonresident entertainer.

3. Any person, venue, or entity required to deduct and withhold tax pursuant to subsection 2 of this section shall, for each calendar quarter, on or before the last day of the month following the close of such calendar quarter, remit the taxes withheld in such form or return as prescribed by the director of revenue and pay over to the director of revenue or to a depository designated by the director of revenue the taxes so required to be deducted and withheld.

4. Any person, venue, or entity subject to this section shall be considered an employer for purposes of section 143.191, and shall be subject to all penalties, interest, and additions to tax provided in this chapter for failure to comply with this section.

5. Notwithstanding other provisions of this chapter to the contrary, the [commissioner of administration, for all taxable years beginning on or after January 1, 1999, but none after December 31, 2015, shall annually estimate the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, sixty percent] **department of revenue, for all taxable years beginning on or after January 1, 1999, shall annually estimate the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. Once collected, revenue derived from the tax imposed under this section, which shall correspond to the estimate provided by the department of revenue, shall**

be placed into the nonresident entertainer and athlete fund. For fiscal year 2007, and for each subsequent fiscal year, eighteen percent of the available amount of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri arts council trust fund, and shall be transferred from the [general revenue] **nonresident entertainer and athlete** fund to the Missouri arts council trust fund established in section 185.100, RSMo, and any amount transferred shall be in addition to such agency's budget base for each fiscal year. [Notwithstanding other provisions of this section, the Missouri arts council shall not be appropriated more than ten million dollars in any fiscal year.] The director shall by rule establish the method of determining the portion of personal service income of such persons that is allocable to Missouri. **For fiscal year 2007, and for each subsequent fiscal year, six percent of the available amount of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be transferred to the Missouri cultural and arts trust fund created under subsection 15 of this section. Subject to appropriations, moneys in the Missouri cultural arts trust fund shall be annually allocated in the following percentages to the following entities:**

- (1) Twelve and one-half percent to the St. Louis Black Repertory Theatre;
- (2) Twelve and one-half percent to the Negro League Baseball Museum, Kansas City, Missouri; and
- (3) The remaining seventy-five percent in equal portions to the following entities:
 - (a) The Juneteenth Heritage and Jazz Festival Foundation;
 - (b) The Better Family Life Cultural Center and Museum;
 - (c) The Black World History Museum;
 - (d) The Harambee Institute;
 - (e) The Portfolio Gallery and Educational Center;
 - (f) The Bruce Watkins Cultural Heritage Center and Museum;
 - (g) The Museum of Black Inventors;
 - (h) The Black Archives of Mid-America;
 - (i) The American Jazz Museum;
 - (j) The Gem Cultural and Educational Center;
 - (k) The W.E.B. Dubois Learning Center;
 - (l) The Carr Square Tenant Corporation;
 - (m) The Reel Images Film and Video Group;
 - (n) The Mutual Musicians Foundation, Inc.;
 - (o) The Mid City Excellence Community Learn Center.

6. Notwithstanding the provisions of sections 186.050 to 186.067, RSMo, to the contrary, the [commissioner of administration] **department of revenue**, for all taxable years beginning on or after January 1, 1999, [but for none after December 31, 2015,] shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident

members of professional athletic teams and nonresident entertainers. **Once collected, revenue derived from the tax imposed under this section, which shall correspond to the estimate provided by the department of revenue, shall be placed into the nonresident entertainer and athlete fund.** For fiscal year [2000] **2007**, and for each subsequent fiscal year [for a period of sixteen years], [ten] **four** percent of the **available amount of the** annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri humanities council trust fund, and shall be transferred from the [general revenue] **nonresident entertainer and athlete** fund to the Missouri humanities council trust fund established in section 186.055, RSMo, and any amount transferred shall be in addition to such agency's budget base for each fiscal year.

7. Notwithstanding other provisions of section 182.812, RSMo, to the contrary, the [commissioner of administration] **department of revenue**, for all taxable years beginning on or after January 1, 1999, [but for none after December 31, 2015,] shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. **Once collected, revenue derived from the tax imposed under this section, which shall correspond to the estimate provided by the department of revenue, shall be placed into the nonresident entertainer and athlete fund.** For fiscal year [2000] **2007**, and for each subsequent fiscal year [for a period of sixteen years], [ten] **four** percent of the **available amount of the** annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri state library networking fund, and shall be transferred from the [general revenue] **nonresident entertainer and athlete** fund to the secretary of state for distribution to public libraries for acquisition of library materials as established in section 182.812, RSMo, and any amount transferred shall be in addition to such agency's budget base for each fiscal year.

8. Notwithstanding other provisions of section 37.200, RSMo, to the contrary, the [commissioner of administration] **department of revenue**, for all taxable years beginning on or after January 1, 1999, [but for none after December 31, 2015,] shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. **Once collected, revenue derived from the tax imposed under this section, which shall correspond to the estimate provided by the department of revenue, shall be placed into the nonresident entertainer and athlete fund.** For fiscal year [2000] **2007**, and for each subsequent fiscal year [for a period of sixteen years], [ten] **four** percent of the **available amount of the** annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri public television broadcasting corporation special fund, and shall be transferred from the [general revenue] **nonresident entertainer and athlete** fund to the Missouri public television broadcasting corporation special fund established in section 37.200, RSMo, and any amount transferred shall be in addition to such agency's budget base for each fiscal year;

provided, however, that twenty-five percent of such allocation shall be used for grants to public radio stations which were qualified by the corporation for public broadcasting as of November 1, 1996. Such grants shall be distributed to each of such public radio stations in this state after receipt of the station's certification of operating and programming expenses for the prior fiscal year. Certification shall consist of the most recent fiscal year financial statement submitted by a station to the corporation for public broadcasting. The grants shall be divided into two categories, an annual basic service grant and an operating grant. The basic service grant shall be equal to thirty-five percent of the total amount and shall be divided equally among the public radio stations receiving grants. The remaining amount shall be distributed as an operating grant to the stations on the basis of the proportion that the total operating expenses of the individual station in the prior fiscal year bears to the aggregate total of operating expenses for the same fiscal year for all Missouri public radio stations which are receiving grants.

9. Notwithstanding other provisions of section 253.402, RSMo, to the contrary, the [commissioner of administration] **department of revenue**, for all taxable years beginning on or after January 1, 1999, [but for none after December 31, 2015,] shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. **Once collected, revenue derived from the tax imposed under this section, which shall correspond to the estimate provided by the department of revenue, shall be placed into the nonresident entertainer and athlete fund.** For fiscal year [2000] **2007**, and for each subsequent fiscal year [for a period of sixteen years], [ten] **four** percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the [Missouri department of natural resources Missouri historic preservation revolving fund, and shall be transferred from the general revenue fund to the Missouri department of natural resources Missouri historic preservation revolving fund established in section 253.402, RSMo, and any amount transferred shall be in addition to such agency's budget base for each fiscal year. As authorized pursuant to subsection 2 of section 30.953, RSMo, it is the intention and desire of the general assembly that the state treasurer convey, to the Missouri investment trust on January 1, 1999, up to one hundred percent of the balances of the Missouri arts council trust fund established pursuant to section 185.100, RSMo, and the Missouri humanities council trust fund established pursuant to section 186.055, RSMo. The funds shall be reconveyed to the state treasurer by the investment trust as follows: the Missouri arts council trust fund, no earlier than January 2, 2009; and the Missouri humanities council trust fund, no earlier than January 2, 2009.] **Missouri sports authority subaccount established under subsection 14 of this section. The funds in the subaccount shall be allocated in the following manner:**

- (1) **Twenty-two percent to the Springfield sports commission;**
- (2) **Sixteen percent to the Joplin sports authority; and**
- (3) **Eight percent to the Branson sports authority; and**

(4) Twenty-three percent to the St. Charles County convention and sports facility authority created in section 67.1150, RSMo , and the St. Charles County Family Arena with an equal division of the twenty-three percent between the two;

(5) Two percent to the Lake St. Louis, Missouri Unlimited Play, Handicap Accessible Playground Facility; and

(6) All remaining funds in the subaccount shall be allocated to convention and visitor bureaus operating sports marketing programs in any home rule city with more than eighty-four thousand five hundred but fewer than eighty-four thousand six hundred inhabitants, any home rule city with more than thirty-five thousand three hundred forty but fewer than thirty-five thousand seven hundred inhabitants, any home rule city with more than seventy-three thousand but fewer than seventy-five thousand inhabitants, any home rule city with more than thirty-nine thousand six hundred but fewer than thirty-nine thousand seven hundred inhabitants and partially located in any county of the first classification with more than seventy-one thousand three hundred but fewer than seventy-one thousand four hundred inhabitants, and any home rule city with more than sixty thousand three hundred but fewer than sixty thousand four hundred inhabitants.

In order for any entity to receive allocations of funds under this subsection, such entity shall provide a local match equal to one hundred percent of the allocation. For fiscal year 2007, the percentage allocated to the Joplin sports authority shall be supplanted by a grant from the subaccount in an amount equal to four hundred thousand dollars to the Joplin sports authority with no requirement of a local match for the grant. In addition to the above percentage, twenty percent of the funds authorized under subdivision 3 of subsection 10 of this section shall be allocated to a home rule city with more than one hundred fifty-one thousand five hundred but fewer than one hundred fifty-one thousand six hundred inhabitants, subject to the award of a grant and procedures established by the office of administration for the acquisition of land, design construction or debt service of new regional sports and recreational facilities, provided at least fifty percent of the cost of each facility is paid for by the city.

10. Notwithstanding other provisions of this chapter to the contrary, the department of revenue for all taxable years beginning on or after January 1, 1999, shall annually estimate the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. Once collected, revenue derived from the tax imposed under this section, which shall correspond to the estimate provided by the department of revenue, shall be placed into the nonresident entertainer and athlete fund. For fiscal year 2007, and for each subsequent fiscal year, the remaining sixty percent of the available amount of the annual estimate of taxes generated from the nonresident entertainer and athletic team income tax shall be allocated among the following:

(1) Four percent to the Negro League Baseball Museum, a not-for-profit entity;
(2) The Jackson County sports authority to be used only for the repair, maintenance, renovation, and replacement of existing sports facilities;

(3) The regional convention and sports complex authority created pursuant to sections 67.650 to 67.658, RSMo, for payment of the state's rental and other contractual payment obligations for debt services and preservation payments with respect to the St. Louis multipurpose convention and indoor sports facility presently known as the Edward Jones Dome. One million five hundred thousand dollars of the revenues allocated under this subdivision shall be allocated to the top tier fund. Any allocation above the one million five hundred thousand dollar top tier fund allocation made under this subdivision shall reduce any appropriations for payment of the state's rental and other contractual payment obligations for debt services and preservation payments with respect to the St. Louis multipurpose convention and indoor sports facility presently known as the Edward Jones Dome made from general revenue in an amount equal to such allocation;

(4) In the case of revenue generated in a city not within a county by nonresident members of professional athletic teams and nonresident entertainers within professional sports facilities used primarily for the playing of professional baseball, the city not within the county shall use such revenue to support investments within a redevelopment project area created under sections 99.300 to 99.600, RSMo, which contains a privately owned professional sports facility used primarily for the playing of professional baseball. Such investments shall include: the acquisition, construction, development, repair, or redevelopment of transportation infrastructure, public infrastructure, parking garages, publicly owned buildings, or other public facilities; any public safety or homeland security related expenses; economic incentives to promote the construction, repair or redevelopment of market-rate housing; or costs related to creating or retaining jobs in Missouri or for downtown infrastructure. Under no circumstances shall such investments be used for the repair, maintenance, renovation, or replacement of privately owned professional sports facilities used primarily for playing professional baseball;

(5) In the case of revenue generated in a city not within a county by nonresident members of professional athletic teams and nonresident entertainers, within a professional sports facility used for the playing of professional hockey and that includes an adjacent theatrical entertainment facility having seating for not more than five thousand guests, the city not within a county shall use such revenue to support expenditures for the repair, maintenance, and renovation of any existing theatrical entertainment facility or for downtown infrastructure or for any other public purpose consistent with this section, but under no circumstances shall such investments be used for the repair, maintenance, renovation or replacement of the existing sports facility used for the playing of professional hockey, which is owned or is on land that is owned, by a city not within a county or any political subdivision,

agency, or instrumentality thereof;

(6) Each county commission that contributes to the fund with revenue generated by the nonresident entertainer and athlete tax, to be used for sports recreation and entertainment purposes;

(7) Five percent to the state school moneys fund created under section 166.051, RSMo.

11. For purposes of the allocations made under subsection 10 of this section, each entity shall receive a pro rata share of the allocated percentage of the annual estimate of taxes generated from the nonresident entertainer and athletic team income tax based upon each entity's proportionate share of revenue generated by such tax.

12. For purposes of the allocations provided under this section, the amount available for such allocations for fiscal year 2007 shall be limited to twenty percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax. For fiscal year 2008, the amount available for the allocations provided under this section shall be limited to forty percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax. For fiscal year 2009, and each subsequent fiscal year, the allocations provided under this section shall be based on one hundred percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax. Any revenue remaining in the nonresident entertainer and athlete fund after annual allocations have been made shall revert to the credit of the general revenue fund. The provisions of this subsection shall not apply to allocations made under subsection 9 of this section.

13. There is hereby created in the state treasury the "Nonresident Entertainer and Athlete Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

14. There is hereby created within the nonresident entertainer and athlete fund a subaccount known as the "Missouri Sports Authority Subaccount". All funds received from the allocation provided in subsection 9 of this section shall be deposited to the credit of the Missouri sports authority subaccount.

15. There is hereby created the "Missouri Cultural and Arts Trust Fund", which shall consist of moneys allocated to it under subsection 5 of this section.